

AMENDED IN SENATE APRIL 9, 2008

AMENDED IN SENATE MARCH 24, 2008

SENATE BILL

No. 1399

Introduced by ~~Senator Simitian~~ *Senators Simitian and McClintock*

February 21, 2008

An act to amend Sections 25981, 25982, 25984, and 25985 of the Public Resources Code, relating to public resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 1399, as amended, Simitian. Public resources: solar shading.

Existing law prohibits a person owning or in control of a property from allowing a tree or shrub to be placed or to grow on the property subsequent to the installation of a solar collector on ~~a~~ *the* property of another if the tree or shrub casts a shadow of a specified size on the collector absorption area during specified times. Existing law exempts trees and shrubs under specified conditions. Existing law authorizes a city, county, or city and county to adopt an ordinance exempting its jurisdiction from the above prohibition. *Existing law defines "solar collector" for these purposes as a device or structure used primarily to transform solar energy into thermal, chemical, or electrical energy.*

This bill would require the owner of property where the solar collector is to be installed to provide, *prior to the its installation*, a written notice *by certified mail* containing specified information to owners of affected property. The bill would, further, exempt trees and shrubs planted prior to the time of the installation of a solar collector and trees and shrubs that are subject to a local ordinance. The bill would redefine "solar collector" to be ~~a the above described device or structure on the roof of a building that is primarily used to transform solar energy into thermal, chemical, or electrical energy.~~ The bill would provide that a

local ordinance specifying the requirements for tree preservation or solar shade control would govern within the jurisdiction that adopted the ordinance. The bill would also make technical nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25981 of the Public Resources Code is
2 amended to read:

3 25981. (a) As used in this chapter, “solar collector” means a
4 fixed device, structure, or part of a device or structure, on the roof
5 of a building that is used primarily to transform solar energy into
6 thermal, chemical, or electrical energy. The solar collector shall
7 be used as part of a system that makes use of solar energy for any
8 or all of the following purposes:

- 9 (1) Water heating.
10 (2) Space heating or cooling.
11 (3) Power generation.

12 (b) For purposes of this chapter, the location of a solar collector
13 is required to comply with the local building and setback
14 regulations, and to be set back not less than five feet from the
15 property line, and not less than 10 feet above the ground. A solar
16 collector may be less than 10 feet in height only if, in addition to
17 the five-foot setback, the solar collector is set back three times the
18 amount lowered.

19 SEC. 2. Section 25982 of the Public Resources Code is
20 amended to read:

21 25982. (a) After the installation of a solar collector, a person
22 owning or in control of another property shall not allow a tree or
23 shrub to be placed or, if placed, to grow on that property so as to
24 cast a shadow greater than 10 percent of the collector absorption
25 area upon that solar collector surface at any one time between the
26 hours of 10 a.m. and 2 p.m., local standard time, if the owner of
27 the building where the solar collector is proposed to be installed
28 has provided written notice *by certified mail* to persons owning
29 property that may be affected by the requirements of this chapter
30 prior to installation of the solar collector. The notice shall ~~include~~
31 ~~all of the following information:~~

1 ~~(a) Name and address of the property owner.~~

2 ~~(b) Address of the building and location by latitude and~~
3 ~~longitude, and location on the building roof where the solar~~
4 ~~collector will be placed.~~

5 ~~(c) Installation date of the solar collector. If the installation date~~
6 ~~is later than the date specified in the notice, the later date shall be~~
7 ~~specified in a subsequent notice to the persons receiving the initial~~
8 ~~notice.~~

9 *be mailed no more than 60 days prior to installation of a solar*
10 *collector and shall read as follows:*

11
12 *SOLAR SHADE CONTROL NOTICE*

13
14 *Under the Solar Shade Control Act (California Public Resources Code §25980*
15 *et seq.) a tree or shrub cannot cast a shadow greater than 10 percent of a*
16 *solar collector absorption area upon that solar collector surface at any one*
17 *time between the hours of 10 a.m. and 2 p.m. local standard time if: a) the*
18 *tree or shrub is placed after installation of a solar collector, and b) the owner*
19 *of the building where a solar collector is proposed to be installed has provided*
20 *this written notice to persons owning property that may be affected by the*
21 *requirements of the Act no more than 60 days prior to the installation of a*
22 *solar collector. Accordingly, the building owner is providing the following*
23 *information to comply with this notice requirement:*

24
25 *Name and address of building owner:*

26 *Telephone number of building owner:*

27
28 *Address of building and specific location where a solar collector will be*
29 *installed (including street number and name, city/county, zip code, and*
30 *assessor's book, page, and parcel number):*

31
32 *Installation date of solar collector:*

33
34 _____
35 *Building Owner, Date*

36
37 *(b) If the installation date is later than the date specified in the*
38 *notice required pursuant to subdivision (a), the later date shall be*
39 *specified in a subsequent notice to persons receiving the initial*
40 *notice.*

1 (c) (1) A transferor of the building where the solar collector is
2 installed shall provide a record of persons receiving the notice
3 required pursuant to subdivision (a) to a transferee of the building.

4 (2) A transferor receiving a notice required pursuant to
5 subdivision (a) shall provide the notice to a transferee of the
6 property.

7 SEC. 3. Section 25984 of the Public Resources Code is
8 amended to read:

9 25984. This chapter does not apply to any of the following:

10 (a) A tree or shrub planted prior to the installation of a solar
11 collector.

12 (b) A tree planted, grown, or harvested on timberland as defined
13 in Section 4526 or on land devoted to the production of commercial
14 agricultural crops.

15 (c) The replacement of a tree or shrub that had been growing
16 prior to the installation of a solar collector and that, subsequent to
17 the installation of the solar collector, dies.

18 (d) A tree or shrub that is subject to a city or county ordinance.

19 SEC. 4. Section 25985 of the Public Resources Code is
20 amended to read:

21 25985. (a) ~~Any~~ A city, or for unincorporated areas, ~~any~~ a
22 county, may adopt, by majority vote of the governing body, an
23 ordinance exempting their jurisdiction from the provisions of this
24 chapter. The adoption of the ordinance shall not be subject to the
25 California Environmental Quality Act (commencing with Section
26 21000).

27 (b) Notwithstanding the requirements of this chapter, a city or
28 a county ordinance specifying requirements for tree preservation
29 or solar shade control shall govern within the jurisdiction of the
30 city or county that adopted the ordinance.